

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	Misc. No.
)	Related to Criminal Action No. 08-372
Plaintiff,)	
)	
v.)	Judge Alan N. Bloch
)	
TROY ALLAN MARTIN)	<i>(Electronically Filed)</i>
)	
Defendant.)	

PETITION FOR PRIVACY ACT ORDER

AND NOW, comes the United States of America, by its counsel, Robert S. Cessar, Acting United States Attorney for the Western District of Pennsylvania and, Albert W. Schollaert, Assistant United States Attorney for said District, and respectfully petitions for an Order allowing the release of certain records that might be otherwise prohibited from release pursuant to 5 U.S.C. § 552a ("the Privacy Act"). In support, the United States avers as follows:

1. On or about October 23, 2008 a four-count Indictment was returned as to Troy Allan Martin at Criminal No. 08-372 charging the acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge in violation of 21 U.S.C. § 843(a)(3). See, Docket at 08-372 attached as Exhibit A.

2. In the course of the investigation and prosecution of Troy Allan Martin, federal authorities obtained prescriptions for narcotics issued to Troy Martin and filled by various pharmacies. Many of these prescriptions were purported to be fraudulently submitted to the pharmacies by Mr. Martin.

3. Upon motion by the United States, the Indictment at Criminal No. 08-372 was taken off the court calendar for the purpose of allowing Troy Martin to undergo a 12-month period of Pretrial Diversion. Exhibit A, Docket entries 35 and 36.

4. Subsequently, upon completion of Pretrial Diversion by Troy Martin, the United States moved to dismiss the Indictment. This Motion was granted by Order of Court on June 7, 2010. Exhibit A, Docket entries 39 and 40.

5. In a matter wherein the United States is not a party, an administrative subpoena *duces tecum* has been served on the government, requesting certain documents and other exhibits obtained in the course of the investigation of Troy Allan Martin. Exhibit 2.

6. The subpoena *duces tecum* was issued on behalf of the New Brighton Area School District pertaining to a labor arbitration hearing wherein Troy Martin is challenging his dismissal from employment with the New Brighton Area School District, based in part upon the above-referenced criminal Indictment. Exhibit 3, January 12, 2010 correspondence from Richard F. Start, Esquire.

7. Pursuant to communications with counsel for the New Brighton Area School District, the United States has determined that copies of prescriptions obtained during the investigation of Troy Martin, in the government's possession, are not otherwise prohibited from disclosure by any of the prohibitive factors found at 28 C.F.R. § 16.26(b).

8. The United States has further determined that only the restrictions contained in the Privacy Act, 5 U.S.C. § 552a would preclude providing this information. The Privacy Act would preclude disclosure without the consent of the individual (Troy Martin) to whom the record pertains without an appropriate Court Order authorizing the release. 5 U.S.C. § 552a(b)(11).

9. The United States respectfully submits that since the requesting authority, i.e., New Brighton Area School District, has demonstrated both relevancy and need for the requested information, the United States has no objection to this Court issuing a Privacy Act Order allowing such disclosure.

Therefore, the United States respectfully requests such an Order be entered allowing disclosure. A proposed Order is attached.

Respectfully submitted,

ROBERT S. CESSAR
Acting United States Attorney

/s/ Albert W. Schollaert
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within ***PETITION FOR PRIVACY ACT***

ORDER was served by mail or electronic filing, upon the following:

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/s/ Albert W. Schollaert
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Date: July 14, 2010